

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Public Notice Regarding the Local Rules
of the United States District Court
for the District of Massachusetts

The Judges of the United States District Court for the District of Massachusetts are considering the adoption of new Local Rules 7.3 and 107.1 and amendments to Local Rules 40.1 and 77.1.

Proposed new Local Rules 7.3 and 107.1 are designed to provide early disclosure of affiliations and circumstances of litigants which might warrant recusal of judges to whom their cases are assigned.

The proposed amendments to Local Rules 40.1 and 77.1 are designed to reflect and refine the court's rules for assignment of cases, particularly in light of the development of a full service divisional office in Worcester.

Copies of the proposed rules and amendments are available for inspection in the Offices of the Clerk, Suite 2300, United States Courthouse, 1 Courthouse Way, Boston, Massachusetts; on the 5th floor of the Federal Building and Courthouse, 1550 Main Street, Springfield, Massachusetts; or the 5th floor of the Donohue Federal Building, 595 Main Street, Worcester, Massachusetts. They may also be found on the Court's web site at www.mad.uscourts.gov.

Those wishing to comment on these proposed amendments to the Local Rules for the District of Massachusetts may do so in writing. All comments must be received on or before July 14, 2000 and should be addressed to:

Hon. Douglas P. Woodlock
Chairman, Rules Committee
c/o Helen M Costello, Projects Manager
United States District Court
United States Courthouse - Suite 2300
1 Courthouse Way
Boston, MA 02210

Tony Anastas
Clerk of Court

May 10, 2000

**RULE 7.3 CORPORATE DISCLOSURE
STATEMENT**

Any nongovernmental corporate party to an action in this court shall file a statement identifying all its parent corporations and listing any publicly held company that owns 10% or more of the party's stock. A party shall submit the statement with its initial pleading filed in the court and shall supplement the statement within a reasonable time of any change in the information.

RULE 107.1 VICTIM DISCLOSURE STATEMENT

The government shall file a statement identifying all known victims of any criminal event or transaction charged in any indictment or information. The government shall submit the statement with the return of the indictment or information and shall supplement the statement within a reasonable time of any change in the identification of such known victims.

RULE 40.1 ASSIGNMENT OF CASES

(~~a~~A) Civil Cases.

(1) *Categories of Cases.* All civil cases shall be divided into ~~the following~~ five (~~5~~) categories for purposes of assignment, based upon the numbered Nature of the Suit listed in the civil cover sheet used by the clerk in initiating the civil docket:

I - 160, 410, 470, 535, R.23, regardless of nature of suit:

II - 195, 368, 400, 440, 441-444, 540, 550, ~~555~~, 625, 710, 720, 730, 740, 790, 791, 820, 830, 840, 850, 890, 892-894, 895, 950.

III - 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.

IV - 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.

V - 150, 152, 153.

A copy of the civil cover sheet form referred to is attached as an appendix to this rule.

(2) *Designation of Nature of Suit.* The party filing the initial pleading shall complete a civil cover sheet, Form JS 44, ~~or any successor forms~~, and file it with the initial pleading. If the clerk should determine that the designation of Nature of Suit is

in error, ~~he~~ **the clerk** shall correctly classify the suit and notify the party filing the initial pleading. A designation shall not thereafter be changed except by order of the Chief Judge **or the judge to whom the case is assigned.**

(3) *Assignment.* The clerk shall place a case in one of the five ~~(5)~~ categories described in subsection ~~(a)~~ **(A)**(1) and, ~~except in the Western Section, or~~ unless otherwise ordered by the Court, assign it by lot among the judges of the court **in active service at their respective duty stations in accordance with this rule** in such manner that **each** such judge shall be assigned as nearly as possible the same number of cases in each category. **A senior judge may limit the category of case and nature of suit assigned to that judge and, within the categories of cases or suits that senior judge will accept, assignment shall be by lot in accordance with this rule.**

~~(b)~~ **(B)** Criminal Cases.

(1) *Categories of Cases.* All criminal cases shall be divided into **the following** three ~~(3)~~ categories:

I - Felony cases expected to require a combined total of fifteen (15) days or more for pretrial hearings before the district judge and trial.

II - All other felony cases.

III - All misdemeanor and petty offense cases where a district judge has been requested; ~~all Rule 20 cases; and all cases~~ involving waivers of indictment; and all matters involving alleged violations of conditions of release by persons transferred to this District for supervision.

(2) *Designation of Category.* The attorney for the United States shall indicate the appropriate category on Form ~~AO-257~~ JS 45, as modified for the District of Massachusetts, or any successor form, and submit the form contemporaneously with the document that initiates the case. If the clerk should determine that the designation of category is in error, ~~he~~ the clerk shall correctly classify the case and notify the attorney for the United States. The designation shall not thereafter be changed except by order of the Chief Judge or the judge to whom the case is assigned.

(3) *Assignment.* The clerk shall place a case in one of the three ~~(3)~~ categories described in subsection (b)(1) and, ~~except in the Central and Western Sections, or unless otherwise ordered by~~ the Court, assign it by lot among the judges of the court in active service at their respective active duty stations within the divisions of the court in accordance with this rule in such manner that each judge shall be assigned as nearly as possible

the same number of cases in each category. A senior judge may limit the category of cases or types of alleged criminal offenses assigned to that judge and within the categories of cases or offenses that senior judge will accept, assignment shall be in accordance with this rule.

(C) Designation of Divisions

The District of Massachusetts consists of three divisions.

(1) Eastern Division

The following counties shall comprise the Eastern Division of the District of Massachusetts: Barnstable, Bristol, Dukes, Essex, Middlesex, Nantucket, Norfolk, Plymouth, and Suffolk. Cases assigned to the Eastern Division and all pleadings and documents therein shall be filed in the clerk's office in Boston.

~~(e2)~~ *Central Section Division*

~~(1) For purposes of assignment of cases to the Worcester session of the court,~~ Worcester County shall be known as **comprise** the Central ~~Section~~ **Division** of the District of Massachusetts. Cases assigned to the Central Division and all pleadings and documents therein shall be filed in the clerk's office in Worcester.

~~(d3)~~ *Western Section Division*

~~(1) For purposes of assignment of cases to the Springfield session of the court,~~ ~~t~~ The following counties shall be known as

~~comprise~~ the ~~Western Section Division~~ of the District of Massachusetts: Berkshire, Franklin, Hampden and Hampshire. ~~(2)~~ Civil ~~C~~ases shall be assigned to the ~~Springfield session of the court~~ ~~Western Division~~ and all pleadings and documents therein shall be filed at the clerk's office in Springfield ~~if~~.

~~(2D)~~ **Assignment of Civil Cases**

~~(1)~~ Civil cases shall be assigned to the ~~Worcester session of the court and all pleadings and documents therein shall be filed at the clerk's office in Worcester~~ **respective divisions** if:

~~(Aa)~~ All of the parties reside in the ~~Central Section of the district~~ **that division**.

~~(Bb)~~ All of the parties reside in the ~~Central and Western Sections~~ **District of Massachusetts** and the **majority of the** plaintiff(s) reside(s) ~~in the Central Section~~ **in that division**.

~~(Cc)~~ The only parties residing in **the District of Massachusetts** reside in the ~~Central Section~~ **that division**; or

~~(Dd)~~ Any of the parties are the United States, the Commonwealth of Massachusetts, or any governmental agency of either the United States or the Commonwealth of Massachusetts and **a majority of all other parties resident in the District of Massachusetts** reside in the ~~Central Section~~ **that division** of the district.

~~(Any papers attributable to a case assigned to the Worcester~~

~~session pursuant to this rule, or transferred to Worcester by order of the court or stipulation of the parties, that are mistakenly filed in Boston or Springfield, shall be immediately transferred to Worcester.)~~

(2) Except as otherwise ordered by the Court, cases not governed by subsection (D)(1) may be filed, subject to reassignment and transfer, in the division chosen by the plaintiff.

(3E) Assignment of Criminal Cases

Criminal cases ~~wherein the alleged violations occurred in the Central Section~~ shall be assigned to Boston until a presiding judge is permanently assigned to the Worcester session and appropriate facilities and adequate security for the trial of criminal cases are provided at Worcester that division in which the most significant criminal conduct related to the alleged violations occurred within the District of Massachusetts. All documents in each criminal case shall be filed in the clerk's office administering cases for the division to which that case is assigned.

~~(A) All of the parties reside in the Western Section of the district.~~

~~(B) All of the parties reside in the Central and Western Sections and the plaintiff(s) reside(s) in the Western Section.~~

~~(C) The only parties residing in Massachusetts reside in the Western Section.~~

~~(D) Any of the parties are the United States, the Commonwealth of Massachusetts, or any governmental agency of either the United States or the Commonwealth of Massachusetts, and all other parties reside in the Western Section of the district Division.~~

~~(Any papers attributable to a case assigned to the Springfield session pursuant to this rule, or transferred to Springfield by order of the court or stipulation of the parties, that are mistakenly filed in Boston or Worcester, shall be immediately transferred to Springfield.)~~

~~(3) Criminal cases shall be assigned to the Springfield session division of the court and all pleadings and documents therein shall be filed at the clerk's office in Springfield if the alleged violations occurred in the Western Section division, except that an indictment presented by a grand jury sitting in Boston or Worcester may be returned in Boston or Worcester and transferred to Springfield by the clerk.~~

(F) Transfer between Divisions

~~(4) Any case may be transferred from one division to another division Boston or Worcester to or Springfield or from Springfield to Boston or Worcester upon consent of all the~~

~~parties and the approval of the judge to whom the case was originally assigned, or on motion of any party for good cause shown~~ or sua sponte for good cause by the judge to whom the case is assigned.

(eG) Related Civil Cases.

(1) For purposes of this rule, a civil case is related to one previously filed in this court if some or all of the parties are the same and if one or more of the following ~~circumstances~~ similarities exist also ~~exists~~: the cases involve the same or similar claims or defenses; or the cases involve the same property, transaction or event; or the cases involve insurance coverage for the same property, transaction or event; or the same patent, copyright or trademark; or the cases involve substantially the same questions of fact and law. In addition, two cases, one criminal and one civil, are related if the civil case involves forfeiture of property from a transaction or event which is the subject of a previously filed criminal indictment.

This rule shall not apply if more than two (2) years have elapsed since the closing of the previous action.

(2) If the party filing the initial pleading believes that the case is related to a case already assigned, whether or not the case is then pending, ~~he~~ that party shall notify the clerk by

notation on the ~~initial pleading, or letter, or memorandum,~~ **local civil category sheet** indicating the title and number of **each** such earlier case, ~~and on the civil cover sheet.~~

(3) The clerk shall ~~determine which cases are related and shall~~ assign related cases to the same judge without regard to the number of other cases in that category previously assigned to that judge. Related cases shall be counted as cases assigned, except as the Chief Judge may otherwise direct. ~~When cases are assigned to the same judge because the clerk determines that they are related, the clerk shall so note on the case cover sheet.~~

(4) The ~~determination of the clerk that two~~ (2) **assignment of** cases ~~are~~ **as** related **by the clerk** shall be subject to correction only by the judge to whom they have been assigned, who shall return cases erroneously assigned on that basis to the clerk for reassignment.

(5) The ~~determination~~ **treatment** of the clerk that a case is ~~as~~ not related to ~~any other~~ **another** case shall be subject to correction only by the joint decision of the judge to whom it has been assigned and the judge to whom it should be assigned, if related to another case. The judges may then transfer the case pursuant to section (f**J**) of this rule, and shall notify the clerk of the reason for the transfer.

~~(5) Civil rights actions by prisoners shall be assigned in the same manner as other civil cases except that subsequent complaints filed by the same individual shall be assigned to the judge to whom the earliest complaint was assigned. If a complaint is brought by two or more prisoners, whether or not any of them is a plaintiff in a civil rights action pending in this court, such cases shall be assigned in the same manner as other civil cases.~~

(H) Related Criminal Cases

(1) For purposes of this rule, a criminal case is related to another criminal case if defendants in the cases may be jointly or severally liable on an order of restitution.

(2) If the government upon filing a case, or any party thereafter, believes that the case is related to a case previously filed, that party shall notify the clerk in writing indicating the title and number of each such earlier case and the clerk shall notify each of the judges assigned to the respective cases.

(3) In the interests of justice and to further the efficient performance of the business of the court, a judge may transfer a case for purposes of sentencing to another judge who has been assigned a related case, if the other judge consents to the

transfer.

(4) In considering whether to transfer cases pursuant to subsection (H)(3), the affected judges should follow an order of preference pursuant to which (a) the transferee judge should be that judge who has presided over the most extensive evidentiary development in trial or motion practice of the facts and circumstances of the criminal event or transaction and the role of the several defendants therein or, in the absence of such evidentiary development, (b) the transferee judge should be that judge who was assigned the first of the related cases to be filed.

(fI) Proceedings after Assignment. Unless otherwise ordered by the court, all proceedings in a case after its assignment shall be conducted before the judge to whom it has been assigned, except as otherwise provided in these rules. This section does not preclude reassignment of cases by the court or the clerk, at the direction of the court, without prior notice to the parties.

(gJ) Reassignment and Transfer of Cases. In the interest of justice or to further the efficient performance of the business of the court, a judge may return a case to the clerk for reassignment, whether or not the case is related to any other case, with the approval of the **Chief Judge** ~~assignment committee~~

~~of the court,~~ or, **with respect to civil cases only,** may transfer the case to another judge, if the other judge consents to the transfer.

(hK) Motion for Consolidation of Cases. A motion for consolidation of two or more cases shall be made in the case first filed in this court.

(iL) Proceedings after Appeal.

(1) When an appellate court remands a case to this court for a new trial, the case shall be reassigned to a judge other than the judge before whom the first trial was held.

(2) In all other cases in which the mandate of the appellate court requires further proceedings in this court, such proceedings shall not be conducted before the judge before whom the prior proceedings were conducted unless the terms of the remand require that further proceedings be conducted before the original judge or unless ~~he~~ **the judge** determines that there will result a substantial saving in the time of the whole court and that there is no reason why, in the interest of justice, further proceedings should be conducted before another judge. If the judge before whom the prior proceedings were conducted does not retain the case for further proceedings, ~~he~~ **that judge** shall return it to the clerk for reassignment.

RULE 77.1 SITTINGS

(a~~A~~) The court shall be in continuous session for transacting judicial business on all business days throughout the year at Boston, ~~W~~orcester and Springfield.

(b~~B~~) Any judge of the court may, in the interest of justice or to further efficient performance of the business of the court, conduct proceedings at a special session at any time~~x~~, anywhere in the district, on request of a party or otherwise.